IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1110 of 2005

With

SPECIAL CIVIL APPLICATION No. 1115 of 2005

For Approval and Signature:

HON'BLE MR JUSTICE MR SHAH

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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RAJENDRASINH D JADEJA - Petitioner(s)

Versus

THE SUPERINTENDENT &5 - Respondent(s)

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Appearance :

Shri Harshad Patel, for MR PANKAJ R DESAI for Petitioner No(s).: 1.
Mr. Hasit D. Dave, AGP for Respondent No(s).: 1,2,3,4,5.

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CORAM :HON'BLE MR JUSTICE MR SHAH

Date : 21/06/2005

ORAL JUDGMENT

Rule. Shri Hasit D. Dave, learned AGP waives service of Rule on behalf of respondents. With the consent of learned advocates

appearing for both the parties, the matter is taken up for final hearing today.

2. In both these petitions, the respective petitioners have prayed for an appropriate writ, direction or order directing the respondents No. 2 to 4 to initiate criminal complaint against respondent No.1 for continuous breach of award under Section 29 of the Industrial Disputes Act, 1947. A further prayer is also sought for directing the respondent No.1 to reinstate the respective petitioners forthwith and pay the backwages.

3. It appears from the record that there are judgments and awards passed in favour of the respective petitioners by the Labour Court, Jamnagar. Those judgments and awards came to be challenged by the respondent No.1 before this Court by way of Special Civil Applications No. 8286 of 2004 to 8298 of 2004 and the learned Single Judge of this Court [Coram: Mr. Akil A Kureshi, J.] by order dated 25.8.2004 dismissed all those applications confirming the judgment and award passed by the Labour Court, Junagadh. Inspite of the aforesaid facts and circumstances the judgment and award passed by the Labour Court, Junagadh were not implemented and therefore the petitioners moved an application before the respondents No. 2 to 4 for initiation of proceedings and file criminal complaint under Section 29 of the Industrial Disputes Act. On 8.2.2005 when the present Special Civil Application came up before the learned Single Judge of this Court it was submitted on behalf of the respondents that respondent No.1 proposes to file a review application before the learned Single Judge who dismissed the aforesaid Special Civil Applications and therefore to enable the respondent No.1 to obtain appropriate order the present Special Civil Applications came to be adjourned to 15th March, 2005 on condition that the respondent No.1 Department should pay a sum of Rs. 2500 to the petitioners on or before 14th March 2005. The learned advocates appearing on behalf of the parties have no instruction whether the aforesaid amount has been paid to the petitioners or not. Be that as it may the fact remains that the judgment and awards passed by the Labour Court which came to be confirmed by this Court are not implemented till date. Shri Hasit D. Dave, learned AGP has submitted that a review application was moved before the learned Single Judge; the same came to be dismissed; and the department has preferred Letters Patent Appeal

which is at the stage of condonation of delay. Be that as it may the fact remains that there is no order staying implementation and operation of the judgment and award passed by the Labour Court till date. The judgment and awards were passed by the Labour Court, Jamnagar in the year 2003 and even the learned Single Judge of this Court has dismissed the Special Civil Applications in the month of August 2004. Still the judgment and awards passed by the Labour Court are not complied with till date.

4. Considering the facts and circumstances of the case, four weeks time is granted to the respondent No.1 to comply with the judgment and awards passed by the Labour Court, Jamnagar, unless any order is passed by Division Bench in the Letters Patent Appeal staying the judgments and award passed by the Labour Court, Jamnagar and subject to the ultimate outcome of the Letters Patent Appeal filed by the respondent No.1 failing which the respondents No. 2 to 4 appropriate authorities are directed to initiate proceedings by filing complaint under Section 29 of the Industrial Disputes Act for non-compliance of the judgment and order. Rule is made absolute in each of the matter with no order as to costs.

[M.R. Shah, J.]

rmr.

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